

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MICHAEL SCHILLER, *et al.*,

Plaintiffs,

-v-

CITY OF NEW YORK, *et al.*,

Defendants.

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DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 12/5/2012

No. 04 Civ. 7922 (RJS)

ORDER

[DOCKET IN ALL RELATED  
RNC CASES]

RICHARD J. SULLIVAN, District Judge:

The Court is in receipt of the following submissions: (1) a letter dated November 4, 2012 from James I. Meyerson, counsel for five plaintiffs in the consolidated action, requesting that the Court set his clients' cases for trial and, in the meantime, make findings concerning the particular circumstances of his clients' arrests; (2) a letter from Mr. Meyerson, dated November 19, 2012, advising the Court that his clients join the motion for reconsideration filed by the *MacNamara* Plaintiffs in No. 04 Civ. 9216 and the anticipated opposition motion to Defendants' motion for reconsideration, located at Doc. No. 632 in the above-captioned case; (3) a letter, dated November 19, 2012, from Jeffrey A. Rothman, counsel for various other Plaintiffs in this consolidated action, advising the Court that his clients also join the motion for reconsideration filed in related case No. 04 Civ. 9216 and also anticipate joining any opposition to Defendants' motion for reconsideration submitted by other Plaintiffs; (4) a letter, dated November 26, 2012, from Alan D. Levine, counsel for other plaintiffs in this consolidated action, advising the Court that his clients also wish to join the motion for reconsideration filed in related case No. 04 Civ. 9216 and any submissions filed in support of that motion; (5) a joint letter from the parties, dated

November 7, 2012, proposing next steps in the consolidated action; and (6) a letter from Defendants, dated November 21, 2012, stating that they are open to further discussion about a global settlement of the consolidated action.

Although the Court is gratified that the parties are exploring the possibility of settlement in this eight-year-old saga, the Court nevertheless recognizes the need for the litigation to advance. Accordingly, IT IS HEREBY ORDERED THAT Defendants shall respond to Mr. Meyerson's letter proposing that the Court set trials for his clients' cases by December 12, 2012. IT IS FURTHER ORDERED THAT the parties in *Dudek v. City of New York, et al.*, No. 04 Civ. 10178 (RJS), *Bell v. City of New York, et al.*, No. 05 Civ. 3705 (RJS), *Starin v. City of New York, et al.*, No. 05 Civ. 5152 (RJS), *Lahn Sheen Lee v. City of New York, et al.*, No. 05 Civ. 5528 (RJS), and *Cohen v. City of New York, et al.*, No. 05 Civ. 6780 (RJS) shall appear for a pretrial conference on Friday, January 4, 2013 at 4:15 p.m.

Mr. Meyerson also requests that the Court make specific findings concerning the circumstances of Plaintiffs Carol Dudek, Julia Cohen and Jennifer Lahn Sheen Lee. Plaintiff Dudek was arrested at East 16th Street. In its Memorandum and Order of September 30, 2012, the Court found that disputed issues of fact common to all the arrests at that site precluded summary judgment, and accordingly the Court denied the parties' summary judgment cross-motions. Although certain circumstances related to Plaintiff Dudek may differentiate her, in some respects, from other Plaintiffs arrested at East 16th Street, the disputed issues of fact common to all East 16th Street Plaintiffs preclude summary judgment in her case as well. Thus, any specific findings concerning Plaintiff Dudek will not change the outcome of her summary judgment motion, and the Court declines to engage in making such findings, particularly since

Defendants' briefing did not address the particulars of each Plaintiff and since doing so would undermine the efficiency rationale of approaching the East 16th Street arrests collectively.

Unlike Plaintiff Dudek, Plaintiffs Cohen and Lahn Sheen Lee were arrested at locations other than Fulton or East 16th Streets. Thus, their claims were not addressed in the Court's Summary Judgment Memorandum and Order of September 30, 2012, and they have not submitted summary judgment motions. Accordingly, it would be inappropriate for the Court to grant Mr. Meyerson's request of making particular findings and discussing the merits of their claims. Thus, Mr. Meyerson's requests are HEREBY DENIED. If Plaintiffs Cohen and Lahn Sheen Lee, or Defendants in their actions, wish to make summary judgment motions, they may submit pre-motion letters in accordance with the Court's Individual Practices no later than December 12, 2012, and the Court will address those letters at the conference on January 4, 2013.

Finally, the Clerk of the Court is respectfully requested to docket the motion for reconsideration submitted in case No. 04 Civ. 9216 (RJS) in the following cases: *Dudek v. City of New York, et al.*, No. 04 Civ. 10178, *Bell v. City of New York, et al.*, No. 05 Civ. 3705, *Starin v. City of New York, et al.*, No. 05 Civ. 5152, *Lahn Sheen Lee v. City of New York, et al.*, No. 05 Civ. 5528, *Meehan, et al. v. Stanich, et al.*, No. 05 Civ. 5268, *Cohen v. City of New York, et al.*, No. 05 Civ. 6780, *Pagoda v. Caban, et al.*, No. 05 Civ. 7546, *Coburn, et al. v. City of New York, et al.*, No. 05 Civ. 7623, *Phillips, et al. v. City of New York, et al.*, No. 05 Civ. 7624, *Sloan, et al. v. City of New York, et al.*, No. 05 Civ. 7688, *Galitzer v. City of New York, et al.*, No. 05 Civ. 7699, *Bastidas, et al. v. City of New York, et al.*, No. 05 Civ. 7670, *Xu, et al. v. City of New York, et al.*, No. 05 Civ. 7672, *Sikelianos v. City of New York, et al.*, No. 05 Civ. 7673, *Drescher v.*

*City of New York, et al.*, No. 05 Civ. 7541, *Abdell v. City of New York*, No. 05 Civ. 8453, *Concepcion v. City of New York, et al.*, No. 05 Civ. 8501, *Eastwood v. City of New York*, No. 05 Civ. 9483, *Adams v. City of New York*, No. 05 Civ. 9484, *Araneda v. City of New York*, No. 05 Civ. 9738, *Tikkun v. City of New York, et al.*, No. 05 Civ. 9901, *Kennedy v. City of New York*, No. 07 Civ. 7678, *Manders, et al. v. City of New York, et al.*, No. 07 Civ. 7752, *Jusick, et al. v. City of New York, et al.*, No. 07 Civ. 7683, and *Rigby v. City of New York, et al.*, No. 07 Civ. 7751. In addition, the Clerk of the Court is respectfully requested to docket the scheduling order issued in the above-captioned action as Doc. No. 635 in all related RNC actions.

SO ORDERED.

DATED: December 4, 2012  
New York, New York

  
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RICHARD J. SULLIVAN  
UNITED STATES DISTRICT JUDGE